IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No.3562 of 2001 (O.&M.)
Date of Decision: 21.11.2006

Karan Singh.

..... Appellant

Versus

Dharam Pal and others.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Anil Ghangas, Advocate for the appellant.
Shri Vaibhav Narang, Advocate for respondent no.2.
Shri V.K.Kapoor, Advocate for respondent no.5.
Shri Vijender Singh Panghal, Advocate for respondent no.6.
None for other respondents.

....

Mahesh Grover,J.

The present appeal has been preferred by the owner of the offending vehicle against award dated 6.3.2000 of the Motor Accident Claims Tribunal, Bhiwani (hereinafter described as `the Tribunal') passed in Claim Petition No.8 of 18.1.1996.

In a motor- vehicular accident which is alleged to have taken place on 30.7.1995, the claimant-Ram Niwas (respondent no.6 herein)

suffered injuries on account of which the learned Tribunal awarded a sum of Rs.60,000/- pursuant to a claim petition preferred by him by virtue of the impugned award.

Learned counsel for the appellant contended that the award was passed by taking into consideration the medical bills which, on the face of it, were fabricated documents. Besides, the respondent-claimant was himself also guilty of negligence and, therefore, the Tribunal ought to have held both the driver of the offending truck and the claimant responsible for having caused the accident and apportioned the liability accordingly. The last contention raised by the learned counsel for the appellant is that the licence of the driver was valid on the date of the accident which he sought to produce before this Court by way of additional evidence.

The aforesaid contentions of the learned counsel for the appellant were refuted by the learned counsel for the respondents, who contended that the Tribunal had rightly fastened the liability upon the appellant as the driver of the offending truck was held guilty of rash and negligent driving and further that the award was just and adequate.

After hearing learned counsel for the parties and perusing the award with their assistance, we are of the considered opinion that the appeal deserves to be dismissed. A perusal of the award shows that neither the appellant, who is owner, nor the driver of the offending vehicle, testified before the Tribunal, which could have persuaded it to record findings in support of the contentions raised by the appellant in the present appeal; even though they had appeared before the Tribunal to file written statement and were duly represented by a counsel. All the contentions raised by the

learned counsel for the appellant could have been met only if adequate evidence had been adduced by them before the Tribunal wherein they were participants.

Even though, an application for additional evidence has been moved, albeit under the wrong provisions of law, yet, the same cannot be considered at this stage in view of the fact that no reason has been shown which would satisfy the requirements of provisions of Order 41 Rule 27 of the Code of Civil Procedure. A litigant is supposed to be diligent in his approach and the provisions of law such as the leading of additional evidence are not to be abused to fill up the lacuna left by the litigating parties on account of their lapses and callous attitude.

In the present appeal also, although, a contention has been raised regarding medical bills having been fabricated, yet, no attempt was made to produce such evidence before this Court.

The appeal, therefore, suffers from complete lack of evidence in so far as the pleas of the appellant are concerned.

There is, thus, no reason to interfere with the award of the Tribunal and the appeal is wholly devoid of any merit, hence, dismissed.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

November 21,2006
"SCM"